

BERRYVILLE TOWN COUNCIL
MEETING AGENDA (Amended 10/28/16)
Work Session
Berryville-Clarke County Government Center
101 Chalmers Court, Second Floor
A/B Conference Room
October 31, 2016
3:00 p.m.

<u>Item</u>	<u>Attachment</u>
1. Call the Town Council to Order – Patricia Dickinson, Mayor	
2. <u>Discussion</u> – Proffer amendment	
3. Discussion – Continuation of the Berryville Area Development Authority	1
4. Discussion – Appointment of a Town Attorney	2
5. Discussion – Committee Assignments	3
6. Discussion – Recording Policy	4
7. Discussion – Assisted Living Facilities	5
8. Other	
9. Adjourn	

↑ **Denotes** an item on where a motion for action is included in the packet

Attachment 1

AGREEMENT DEFINING ANNEXATION RIGHTS

WHEREAS, the Town of Berryville, Virginia, (herein called "the Town"), and the County of Clarke, Virginia, (herein called "the County"), desire to enter into an agreement defining the Town's annexation rights in the future; and

WHEREAS, the Town Council has completed a study to determine the feasibility of annexing certain lands located in the County adjacent to the corporate limits of the Town; and

WHEREAS, the said study developed a map (see Attachment A) and metes and bounds descriptions (see Attachment B) outlining Areas "A" and "B" in which future annexation by the Town may take place; and

WHEREAS, the Town offers to permanently renounce its right to become a city; and

WHEREAS, the Town and the County desire to enter into an agreement to provide for the regular and orderly urban growth of the Town consistent with the County and Town Comprehensive Plans,

NOW, THEREFORE, WITNESSETH: That for and in consideration of the premises and in further consideration of the mutual premises and covenants herein contained, the Town and County do mutually agree as follows:

1. The Town, by the execution of this agreement as provided by §15.1-1058.1 of the Code of Virginia, 1950, as amended, does hereby permanently renounce its right to become a city.

2. It is the intent of the Town to annex the area designated as Area "A" in the proposed annexation map, which is attached hereto as Attachment A and incorporated herein by reference as a

part of this agreement, as of January 1, 1989. Such annexation shall be accomplished by enacting a Town Annexation Ordinance after the execution of this agreement by the parties.

3. Any tract of land in Area B, contiguous to the Town, or contiguous to land being simultaneously annexed by the Town, may be annexed by the Town, at its discretion, at any time after joint approval of the land use plan for Area B, as provided in paragraph 6 (a) of this agreement, and (a) the County has taken zoning action after January 1, 1988, to permit development on the tract which requires public water and/or sewer service or (b) the Town has approved a subdivision application for the tract which requires public water and/or sewer service or (c) by mutual agreement of the Town and the County. For purposes of this agreement, "zoning action" shall include zoning, rezoning, approval of a site development plan, or any action to permit a use not permitted by right pursuant to zoning regulations.

4. The annexation of property in Area B shall be effected by Town ordinance; provided, however, no such annexation ordinance shall be adopted by the Town unless prior formal notice has been given to the Board of Supervisors of the County announcing the intention of the Town to adopt such an ordinance, nor until a public hearing, advertised once a week for two successive weeks in a newspaper of general circulation in the County has been held on such proposed annexation. Any annexation ordinance adopted by the Town under the terms of this agreement shall include:

(a) a description of the area to be annexed, such description being of sufficient definiteness to enable location

of the boundaries of the area to be annexed;

(b) information which can be recorded on a map attached to the ordinance, indicating the location of subdivisions, major industrial and commercial sites and vacant areas, as well as other information relevant to the possible future uses of property within the area proposed for annexation; and

(c) a statement of the terms and conditions upon which the annexation will be effected, including provisions for the extension of utilities and for meeting an annexed area's service needs.

5. All annexation shall be made effective as of midnight on December 31 of the year specified, and certified copies of each adopted annexation ordinance shall be filed with the Circuit Court of Clarke County, the Secretary of the Commonwealth, and other State and Federal agencies which require knowledge of local government boundary changes.

6. a) The Town and County agree that in order to have coordinated and meaningful planning and land use regulation and administration in Area B, the County shall designate this area as the County's "Urban Services Area", in and for which Area the County and Town shall, jointly and formally, adopt a specific future land use plan by March 31, 1989. Such jointly adopted future land use plan, as it applies to Area B, shall not be amended in the future without joint approval of the Town and the County. In the event the County and Town do not jointly adopt the future land use plan for Area B by March 31, 1989, or such later date mutually agreed on by the County and Town, then the

parties agree that they will jointly adopt the future land use plan for Area B for which the joint public hearing was held on December 12, 1988. In order that subdivision regulations reflect Town standards for development, the Town or its designated agent shall have exclusive extraterritorial subdivision jurisdiction in all of the Area B - Urban Services Area upon joint adoption of the future land use plan as required herein. The Town and County agree that County zoning ordinances shall apply to all tracts of land in the Area B -- Urban Services Area and shall be administered by the County through its appointed officials until the effective date of annexation of each respective tract of land in Area B by the Town. The Town agrees to permit any land use approved by the County in Area B -- Urban Services Area, subject to the performance by the landowner of any conditions or zoning proffers imposed by the County or granted by the applicant at the time of the land use approval, whether by rezoning, special permit, special exception, variance or waiver. Following annexation of an area, the Town or its designated agent shall assume the administration of all zoning and land use control ordinances for the area annexed pursuant to Town zoning and land use control ordinances.

b) The County agrees that all applications in Area B for zoning action shall be referred by the County Planning Administrator for a joint review by the County Planning Commission and Town Planning Commission. The respective commissions may meet jointly and shall make their recommendations jointly or severally, as each respective commission may so desire, to the County Board of Supervisors, as provided by law.

The Town agrees that provided such referrals are made in a timely fashion so as to allow adequate time for review, the Town Planning Commission shall in turn make a timely recommendation, if any, so as not to delay formal action by the County within the statutory time limits for same. Any such referrals by the County to the Town Planning Commission should be made no less than five (5) days prior to any meeting of the Commission during which presentation by the County Planning Administrator and action thereon by the Commission is desired.

c) The County recognizes that portions of Area A and Area B drain into the Town, and that zoning and development in those areas without the Town's review will create an unfair burden on the Town. As a result, the County agrees not to approve any zoning action in Area B - Urban Services Area until the Town has received and commented on the provision of storm water drainage control and the provision of Town public utilities.

7. The County agrees that it shall fund \$75,000 toward necessary stormwater drainage improvements to that portion of Town Run situated outside the existing, preannexation corporate boundaries of the Town at such time that the Town institutes the project.

8. Notwithstanding the terms of this agreement, the Town in no way relinquishes authority or power to use the traditional annexation process authorized by Article I, Chapter 25, Title 15.1 of the Code of Virginia as now in existence or as may be amended in the future, as to any land in the County including Areas A and B.

9. This agreement shall become void in the event no annexation ordinance is adopted by the Town within five (5) years of the date of the final approval of this agreement.

10. Notwithstanding the terms of this agreement, no one residing or owning property in Clarke County (including Areas A and B) is restricted in exercising his or her right to petition for voluntary annexation to the Town of Berryville under §15.1-1034 of the Code of Virginia of 1950, as amended. However, the Town shall reserve its right to reject such annexation petition by ordinance, as provided in § 15.1 - 1034 of the Code of Virginia, 1950, as amended.

11. The Town and County reserve the right to modify this agreement by joint consent. Review and modification of the Area B limits delineated in Attachments A and B, shall be considered in the event that major development is proposed outside the area, but is contingent on the provision of Town services. A request for review may be initiated by the Town or the County. If no such review is requested during the first thirty (30) years the agreement is in effect, one shall be scheduled during the thirtieth year jointly by the County and Town.

12. The Town agrees that upon the effective date of any annexation which is accomplished under the terms of this agreement, the Town shall extend its public safety and other general governmental services to the areas annexed at the same level as there exists within the Town.

Witness the following signatures and seals:

TOWN OF BERRYVILLE

BY: Richard L. Full (SEAL)
Mayor

DATE: 12/29/88

Attest:

Boyle Potts Jr.

COUNTY OF CLARKE

BY: John D. Hardesty (SEAL)
Chairman

DATE: 12/29/88

Attest:

C. Robert Lee, County Administrator

AMENDED
RESOLUTION AND AGREEMENT

WHEREAS, the Town of Berryville ("Town") and the County of Clarke ("County") have previously entered into an Agreement Defining Annexation Rights; and

WHEREAS, said Agreement establishes an Urban Services Area area around the Town, identified as "Area B" in that Agreement; and

WHEREAS, the County and Town have agreed that the Town shall have extraterritorial subdivision jurisdiction in Area B, pursuant to Section 15.1-467, Code of Virginia; and

WHEREAS, the Town and the County desire to provide for orderly development in Area B pursuant to the Town's subdivision ordinance and the applicable site development plan regulations of the Town and County zoning ordinances; and

WHEREAS, the Town and the County desire to provide for joint exercise of subdivision and site development plan review in Area B by the adoption by each of this resolution; and

WHEREAS, the Town and the County desire to provide for joint review of such other matters involving Area B as may be delegated from time to time to the Authority established by this Agreement; and

WHEREAS, the Town and the County desire to amend the prior Resolution and Agreement adopted by them in a joint meeting on March 27, 1990.

NOW, THEREFORE, BE IT RESOLVED that the Town and the County do hereby enter into the following amended agreement:

1. The duration of this agreement shall be for so long as any portion of Area B has not been annexed by the Town or until this Agreement is revoked by either party by ninety (90) days written notice to the other.

2. A joint authority, to be known as the Berryville Area Development Authority ("Authority"), is hereby created. The purpose of the Authority shall be to administer the Town's subdivision ordinance and the applicable site development plan regulations of the Town and County zoning ordinances in Area B, and to perform such other duties as may be delegated to it from time to time by the Town and the County.

3. The Authority shall be composed of a total of six (6) members, of which three (3) members shall be appointed by the Berryville Town Council and three (3) members shall be appointed by the Clarke County Board of Supervisors. Each jurisdiction will initially appoint one member for a three (3) year term, one member for a two (2) year term, and one member for a one (1) year term. Upon expiration of the initial terms, all terms shall be for three (3) years. Vacancies occurring other than through the expiration of a term shall be filled for the unexpired term by the appropriate governing body.

4. The Authority shall adopt by-laws, and shall annually elect officers.

5. The Town hereby delegates to the Authority, as its agent, the administration of (i) the Town subdivision ordinance,

(ii) the site development plan regulations of the Town zoning ordinance, and (iii) the Historic District regulations, if any, of the Town zoning ordinance, for property in Area B which is the subject of the application and for which no final certificate of occupancy has been granted.

6. The County hereby delegates to the Authority, as its agent, the administration of (i) the site development plan regulations of the County zoning ordinance, and (ii) the Historic Access Corridor Overlay District of the County zoning ordinance for property in Area B not in the Town.

7. The Authority is hereby vested with the responsibility for review and action on all subdivision applications and site development plan applications in Area B pursuant to the terms of this Amended Resolution and Agreement.

8. The County and the Town shall each designate one or more staff persons to serve the Authority.

9. Fees and bonds for subdivisions shall be payable to the Town; fees for site development plans shall be payable to the jurisdiction which is providing the primary staffing for the application; and bonds for site development plans shall be payable to the Town if the property is located in the Town, and otherwise to the County.

10. Expenses of the Authority related to the processing of a particular application (not including staff persons employed by the County or the Town) shall be the responsibility of and paid by the jurisdiction to which application fees are payable. All other expenses of the Authority shall be shared equally by

the County and Town. The Town shall act as fiscal agent for the Authority.

11. This Amended Resolution and Agreement amends and replaces, effective as of the date of adoption hereof by both the Town and County, the Resolution and Agreement adopted by the Town and the County in a joint meeting on March 27, 1990.

12. This Amended Resolution and Agreement may be amended by mutual agreement of the Town and the County.

DATE APPROVED BY
BERRYVILLE TOWN
COUNCIL:

12/8, 1992

TOWN OF BERRYVILLE

By



Mayor

DATE APPROVED BY
CLARKE COUNTY BOARD
OF SUPERVISORS;

12/15, 1992

COUNTY OF CLARKE

By


Chairman, Board of Supervisors

Attachment 2

Code of Virginia

Title 15.2. Counties, Cities and Towns

Chapter 15. Local Government Personnel, Qualification for Office, Bonds, Dual Office Holding and Certain Local Government Officers

§ 15.2-1542. Creation of office of county, city or town attorney authorized; appointment, salary and duties.

A. Every county, city or town, not otherwise authorized to create the office, may create the office of county, city or town attorney. Such attorney shall be appointed by the governing body to serve at the pleasure of the governing body. He shall serve at a salary or at an hourly rate to be fixed by the governing body and shall be allowed to recover his reasonable costs expended. Any such attorney serving at an hourly rate shall provide the locality with an itemized list of fees and expenses. In the event of the appointment of such attorney, the attorney for the Commonwealth for such locality shall be relieved of any duty imposed upon him by law in civil matters of advising the governing body and all boards, departments, agencies, officials and employees of the locality, of drafting or preparing ordinances, of defending or bringing actions in which the local government or any of its boards, departments or agencies, or officials or employees, thereof, shall be a party, and in any other manner advising or representing the local government, its boards, departments, agencies, officials and employees, and all such duties shall be performed by the local government attorney. Nothing herein, however, shall relieve such attorney for the Commonwealth from any of the other duties imposed on him by law including those imposed by § 2.2-3126.

B. The county attorney may prosecute violations of the Uniform Statewide Building Code, the Statewide Fire Prevention Code and all other ordinances as may be agreed upon with the attorney for the Commonwealth. Such attorney shall be accountable to the governing body in the performance of his duties.

C. The county attorney of Montgomery, Fairfax or Prince William Counties may prosecute violations of county ordinances, except those ordinances which regulate, in a manner similar to State statute, the operation of motor vehicles on the highway.

D. City and town attorneys, if so authorized by their local governing bodies, and with the concurrence of the attorney for the Commonwealth for the locality, may prosecute criminal cases charging either the violation of city or town ordinances, or the commission of misdemeanors within the city or town, notwithstanding the provisions of § 15.2-1627.

1968, c. 695, § 15.1-9.1.1; 1974, c. 305; 1977, c. 584; 1979, c. 328, § 15.1-9.1.01; 1981, c. 122; 1982, c. 30; 1994, c. 357; 1995, c. 740, § 15.1-9.1.3; 1997, c. 587; 2002, c. 802.

Attachment 3

Town Council Committee Assignments

Standing Committees

Budget & Finance	Erecka Gibson, Chair; Pat Dickinson
Community Improvements	Donna McDonald, Chair; Allen Kitselman; David Tollett
Economic Development Advisory	(not staffed)
Personnel	Pat Dickinson, Chair; Jay Arnold; Erecka Gibson
Police & Security	David Tollett, Chair; Donna McDonald
Streets & Utilities	Pat Dickinson, Chair; Donna McDonald; David Tollett
Town Administration Policy	(not staffed)

Liason to Town Appointed Boards

Berryville Area Development Authority	Allen Kitselman
Berryville Planning Commission	David Tollett

Special Committees

Clarke County Economic Development Committee	Christy Dunkle
Clarke County Parks & Recreation Board	Ronald Huff
Northern Shenandoah Valley Regional Commission	Pat Dickinson
Berryville Main Street	Jay Arnold
Barns of Rose Hill	Allen Kitselman

Attachment 4

Town of Berryville Policy

Photography, Video Recording, and Audio Recording of Town Meetings

I. Purpose

Meetings of Town public bodies are intended to allow the public bodies to conduct public business in an open and transparent fashion. The Town may record public meetings for its purposes, and the public, including news media, may record meetings as allowed by law. This policy is to provide direction to Town officials regarding how Town recordings will be utilized, disseminated, and destroyed. The policy is also to provide direction to the presiding officers of public meetings regarding how recording and photography may occur during public meetings.

II. Policy

A. Recording by Town Officials

All public meetings of the Town Council and the Planning Commission, except duly constituted closed meetings held in accordance with the Code of Virginia, will be recorded. The recording may be used by the member of the Town staff responsible for preparing the minutes of the meeting. The recording shall be destroyed after the meeting minutes have been approved by the public body; provided, however, if the recording is determined by an affirmative vote of a majority of the membership of the public body that the recording is of an enduring historically significant nature or describes the current function or organization of the Town's major administrative units, then the recording shall be considered a permanent record pursuant to the Virginia Public Records Act and shall be retained. The destruction of all recordings shall comply with the Virginia Public Records Act. Recordings that are the subject of a Freedom of Information Act request shall be retained in accordance with applicable requirements.

B. Recording of meetings and photography by the public

A member of the public may audio or video record or photograph the Town's public meetings. The public's recording activities may not disrupt the meeting. Disruptions would include noise, supplemental lighting (not approved in advance by the presiding officer), flash photography (not approved in advance by the presiding officer), or blocking the view of other members of the public. No person may position equipment or personnel in a manner that the presiding officer deems an obstruction to emergency egress or accessibility by handicapped individuals.

III. Procedures

A. Recording Meetings

The Town staff person tasked with taking minutes notes for the meeting will begin recording prior to the meeting being called to order and end recording upon meeting adjournment. When a public body enters a closed meeting, the recording will be stopped and recording will resume just prior to the presiding officer announcing that the public body has re-entered open session.

B. Equipment Failures

If during a meeting it is discovered that the recording device is not functioning properly, the staff member recording the meeting will immediately notify the presiding officer of the problem. If the recording device can be made to function or if a backup recording device is available, the remainder of the meeting will be recorded. Otherwise, the meeting will proceed without being recorded. If it is discovered after a meeting that the recording device failed to record the meeting, then the staff member responsible for preparing meeting minutes will notify the presiding officer and the Town Manager of the problem.

Attachment 5

Senior Units as of 10/26/2016

Mary Hardesty	60 units
Johnson-Williams Apartments	40 units
Greenfield	up to 66 residents
Rose Hill Nursing Home	skilled nursing facility, 111 with licensure up to 120 beds
Godfrey House	22 beds
Meridian	67 beds (site plan going to BADA 11/30/16)
Regan House	120 units
OTHER (e.g. subsidized, Section 8)	
Washington Square	46 units
Orchard Court	28 units
Country View	50 units